



# Maryland State Licensed Beverage Association

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150 E. Main St., Suite 104, Westminster, MD 21157 ♦ (410) 876-3464, (800) 921-1381  
FAX: (410) 871-2545 ♦ Website: [www.mslba.org](http://www.mslba.org) ♦ E-mail: [mslba@msn.com](mailto:mslba@msn.com)

November 18, 2010

TO: MSLBA Members

FROM: Jane Springer, Executive Director

RE: **Caffeinated Alcohol Beverages – Voluntary Ban**

In response to a request from Comptroller Peter Franchot (Comptroller of Maryland), MSLBA and the Maryland Beer Wholesalers Association (MBWA) are asking its members to voluntarily halt the distribution and sale of products commonly referred to as caffeinated beverages. Following is a joint letter from MSLBA & MBWA to Comptroller Franchot regarding this decision.

Following the MSLBA/MBWA decision, the US Food and Drug Administration (FDA) announced that they were sending warning letters to four manufacturers of caffeinated alcohol beverages urging them to review the way they are marketing their caffeinated alcohol drinks and to "take swift and appropriate steps to protect consumers." The letters instructed the companies to notify FDA of the actions they have taken within 15 days. The four companies are Charge Beverages Corp., New Century Brewing Co. LLC, Phusion Projects LLC (which does business as the Drink Four Brewing Co.), and United Brands. The caffeinated malt beverages referenced in these warning letters are Core High Gravity HG Green, Core High Gravity HG Orange, Four Loko, Joose, Lemon Lime Core Spiked, Moonshot (This product is labeled as "premium beer with caffeine"), and Max .

Your consideration in participating in this voluntary ban is appreciated.

Following are links with further information:

- **State Bans Alcoholic Energy Drinks - John Rydell**  
Fox 45 WBFF Baltimore, 11/17/10 Video  
[http://www.foxbaltimore.com/newsroom/top\\_stories/videos/wbff\\_vid\\_5890.shtml](http://www.foxbaltimore.com/newsroom/top_stories/videos/wbff_vid_5890.shtml)
- **FDA actions following announcement of voluntary ban**  
<http://www.fda.gov/downloads/ForConsumers/ConsumerUpdates/UCM234132.pdf>
- **Groups agree to pull Four Loko, other caffeinated alcoholic drinks.**  
**Franchot Brokers deal to curtail sales in Maryland**  
The Baltimore Sun, 11/17/10 News Article  
<http://www.baltimoresun.com/health/bs-md-franchot-drinks-ban-20101117,0,3581532.story?page=1>
- **Alcoholic energy drinks draw fire**  
Maryland Daily Record, 11/17/10 News Article  
<http://mddailyrecord.com/2010/11/17/alcoholic-energy-drinks-draw-fire/>

Please feel free to contact the MSLBA office if you have any questions or comments.



November 17, 2010

The Honorable Peter Franchot  
Comptroller of Maryland  
80 Calvert Street  
Louis Goldstein Treasury Bldg.  
Annapolis, Maryland 21401

RE: Caffeinated Alcoholic Beverages

We are writing in response to your request that our trade associations call upon their members to voluntarily halt the distribution and sale of products commonly referred to as caffeinated alcoholic beverages. Individually, our respective organizations met and discussed your request. Each association reached the conclusion that the responsible course is to ask that our members voluntarily halt the distribution and sale of infused caffeinated alcoholic beverages.

As you know, the U.S. Food and Drug Administration (FDA) is currently examining these products, and individual states like Michigan, Pennsylvania, Oklahoma, New York, North Carolina, Indiana, and Arkansas have in recent weeks implemented bans or begun their own review of these products. In response to your request and the circumstances surrounding caffeinated alcoholic beverages, both of our associations have concluded that the responsible course is to halt the sale of these products pending an outcome of the review being conducted by the FDA. Accordingly, the board of the Maryland Beer Wholesalers Association (MBWA) voted today to call upon its members to take the lead and voluntarily stop accepting shipment of these drinks. Likewise, the board of the Maryland State Licensed Beverage Association, Inc. (MSLBA) voted today to call upon its members to stop retail sales of these products as promptly as business circumstances permit.<sup>1</sup>


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<sup>1</sup> MSLBA was established in 1950 and is comprised of over 1,200 Maryland businesses that hold retail alcoholic beverage licenses (restaurants, bars, taverns and package stores). MBWA was established over forty years ago and is comprised of 22 family owned and operated companies throughout the state of Maryland.

On behalf of our respective trade associations, we thank you for contacting us on this matter and for working with our industry to address this issue of mutual concern.

Should you have any questions, please contact Steve Wise, Legal Counsel to MSLBA, at 410-244-7000, or Nick Manis, Deputy Director of MBWA, at 410-263-7882.

Sincerely,



John Daue, President, MBWA



Alice March, President, MSLBA



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

201 W. Preston Street • Baltimore, Maryland 21201

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

November 20, 2010

Maryland Beer Wholesalers Association, Inc.

C/O Mr. Nicholas G. Manis

[nmanis@maniscanning.com](mailto:nmanis@maniscanning.com)

Maryland State Licensed Beverage Association

C/O Mr. J. Steven Wise

[Swise@schwartzmetz.com](mailto:Swise@schwartzmetz.com)

Re: Caffeinated Alcoholic Beverages

Dear Beverage Industry Associations:

I am writing to you and members of the beverage industry to urge immediately wholesalers to refrain from distributing and retailers to refrain from selling certain adulterated products. These products should be promptly removed from the distribution and retail chains of operation.

As you know, the U.S. Food and Drug Administration ("FDA") has been reviewing the safety and legality of caffeinated alcoholic beverages for the last year. This week the FDA issued notices to four manufacturers of caffeinated alcoholic beverages advising them that their products are adulterated in violation of the federal Food, Drug, and Cosmetics Act. The products named by the FDA are "Four Loko," "Joose," "Max," "Core High Gravity HG Green," "Core High Gravity HG Orange," "Lemon Lime Core Spiked," and "Moonshot."

Maryland law defines a "food" as "any substance that is used as food or drink for human beings or as a component of food or drink for human beings...." Md. Health-General Article, Section 21-101(i) Code Ann. (2009 Repl. Vol.). The caffeinated alcoholic beverages described in the FDA orders are included in the definition of "food" and are subject to these same food additive requirements. Health-General Article Sections 21-207 and 21-208 define the circumstances under which Maryland will consider human food and drink to be adulterated. Section 21-207 states that a food is adulterated if it contains an unsafe food additive or if it contains an added "deleterious substance" in quantities making it injurious to public health.

The federal food additive regulations related to caffeine limit its use to no more than 0.02 percent when used in cola-type beverages. There is no regulation that permits caffeine to be added to alcoholic beverages. The FDA has now determined that the caffeine in certain alcoholic beverages is

November 20, 2010

Page 2

an “unsafe food additive.” Therefore, pursuant to the foregoing provisions, these caffeinated alcoholic beverages are adulterated.

As Associations representing the alcohol beverage industry, you have indicated to the Comptroller of Maryland that you and your members recognize the seriousness of these FDA findings. You have stated that appropriate action will be taken so that members refrain from selling or accepting shipment of these products. I strongly support your efforts in this regard and will work with your members to resolve this matter.

In the coming days, the Department of Health and Mental Hygiene and local health department representatives will be taking steps to ensure that distributors and retailers of the above-named caffeinated alcoholic beverages have discontinued distributing and selling these adulterated products in Maryland.

I anticipate and appreciate your cooperation in this important public safety initiative.

Sincerely,

A handwritten signature in black ink, appearing to read "John Colmers". The signature is written in a cursive, flowing style.

John M. Colmers  
Secretary of Health and Mental Hygiene

cc: The Honorable Peter Franchot  
Maryland Wholesalers / Distributors  
(Per attached list)

Maryland Beer Wholesalers

Bond Distributing Co.  
1220 Bernard Drive  
Baltimore, MD 21223

Buck Distributing  
P.O. Box 1490  
Upper Marlboro, MD 20773

B.P. Lesky Distributing Co.  
120 Western Maryland Parkway  
Hagerstown, MD 21740

Carey Distributing  
200 N. Dulany Avenue  
Fruitland, MD 21826

G & G Dist., Inc.  
2543 Centerville Road P.O. Box 186  
Centerville, MD 21617

Northeast Beverage Corp.  
One Coors Drive  
North East, MD 21901

The Larkin Wholesale Company, Inc.  
929 Eldridge Drive  
Hagerstown, MD 21740

Lohr Distributing., Inc.  
320 South 8th Street P.O. Box 5  
Oakland, MD 21550

Western MD Distributing Co., Inc.  
14600 Burbridge Rd., S.E. P.O. Box 33  
Cumberland, MD 21501-0033

Premium Distributors of Washington  
530 Monocacy Boulevard  
Frederick , MD 21701

Bob Hall LLC  
P.O. Box 1308  
Upper Marlboro, MD 20773

BOZICK DISTRIBUTORS, INC.  
2840 Old Washington Road  
Waldorf, MD 20601

FREDERICK P. WINNER LTD.  
1101 DeSoto Road  
Baltimore, MD 21223

Winner Distributing Company  
7001 Quad Ave  
Baltimore, MD 21237

Katcef Brothers  
2404 A and Eagle Blvd  
Annapolis MD 21401

J.C. Dodd Distributing  
7916 Industrial Park Road  
Easton MD 21601

Sentman Distributors Inc.  
400 Maloney Road  
Elkton MD 21921

Wantz Distributing Co., Inc  
25785 Point Lookout Road  
Leonardtown MD 20650

Eastern Shore Distributing Ltd  
811 Snow Hill Road  
Salisbury MD 21804

Legends Limited  
8901 A Yellow Brick Road  
Baltimore, MD 21237  
United States

Price Beer Distributors Inc  
75 S Water Street, Suite 1  
Frostburg, MD, 21532-1784

Sunbelt Beverage Company LLC  
226 Dover Road  
Glen Burnie MD 21060-6414

Sanders Distributing Company  
1 Dunbar Lane  
Taneytown MD 21787-2771

National Distributing Company  
8201 Stayton Drive  
Jessup MD 20794-9633

Montgomery County Dept. of Liquor Control  
16650 Crabbs Branch Way  
Rockville, MD 20855\*

\*Montgomery County Liquor Control does not allow Four Loko or Joose to come into the county. Per Kathie Durbin, Division Chief, Licensure, Regulation and Education, Montgomery County Department of Liquor Control, [kathie.durbin@montgomerycountymd.gov](mailto:kathie.durbin@montgomerycountymd.gov)